

# ***Fitness for Duty***

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## **Introduction**

Every employee is responsible for reporting to work fit to perform assigned tasks responsibly, productively, reliably, and safely. Primary responsibility for fitness for duty (FFD) rests with the employee. If the employee has failed to take personal responsibility for FFD, prompt, appropriate, and supportive intervention by the supervisor is essential to maintain a safe, productive workplace and assist employees to maximize their capabilities and contributions.

This guide addresses the major areas of supervisory concern and caution. It provides managers and supervisors with a background on FFD. Included are descriptions of behaviors that may warrant concern. It documents citations that aid in the implementation of the FFD process. It also includes Laboratory resources that are available for the FFD evaluation process. Following each major area that warrants supervisory intervention, a section entitled “Red Flags” will list behaviors managers need to be concerned about. Fitness for duty is addressed in AM 903, *Fitness for Duty*.

## **PART I:**

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### **Manager and Supervisor Responsibilities**

Managers and supervisors are responsible for detecting changes in performance or behavior, for accurate and complete documentation of all questionable behaviors and/or performance problems, and for the interaction with the employee and others in addressing concerns. The information is sensitive and should be given commensurate protection.

The following guidelines are important steps supervisors and managers should take when dealing with an FFD evaluation:

***Know your employee:*** Not every change in behavior is a danger sign. Talk to employees to obtain baseline or benchmark behavior that the employees use on a daily basis. This will assist in making the difficult determinations about an employee’s change in behavior or performance. Always take action if something unusual is taking place. Unusual behavior can be a threat not only to the employee exhibiting such behavior, but also may be a threat to other workers, Laboratory property, the environment, or the public.

***Seek appropriate Laboratory assistance:*** When reasonable concerns exist that an employee's performance or behavior needs intervention, get help. Employee Relations staff can assist in evaluating management concerns and choosing appropriate interventions consistent with Laboratory policy, procedure, and practice, and will guide supervisors and managers through the process. Occupational Medicine staff will assist with the FFD evaluation process if necessary from beginning to end and will provide feedback and recommendations regarding medically driven work restrictions.

***Discuss concerns and plan of action with the employee:*** Give the employee specific information about the concerns and allow the employee to provide information that may assist in devising a plan for improvement and corrective action. This professional interaction should be as positive, supportive, and constructive as possible. It is imperative that managers and supervisors remain descriptive and objective in relaying concerns without presuming or diagnosing a physical or emotional health problem.

***Determine a course of action:*** The course of action should address the specific performance or behavior concerns. Never postpone dealing with performance issues or behavior problems because a medical issue is raised. Actions may include removal of the employee from the work site until appropriate investigations, disciplinary review boards, or FFD evaluations have taken place. Each case requires an individualized course of action and the Employee Relations staff will assist in devising plans that are consistent with Laboratory practice while individualizing to specific needs.

The following is a list of reasons LANL supervisors have given for failing to take necessary action with employees:

- not wanting to be seen as the bad guy by peers;
- fear of losing trust, support, and respect of workers;
- possible loss of a valued friendship;
- employee could be my supervisor on the next job;
- physical reprisals or verbal abuse;
- creating trouble if wrong;
- intervention might do more harm than good;
- not sure upper management will support my actions;
- not sure if I've done enough for the employee.

Managers and supervisors must not be reluctant to take action.

**Team:** Team with the employee The Employee Relations staff, and if appropriate, the Occupational Medicine FFD staff to work with you on resolving problems, initiating appropriate performance or disciplinary action, implementing temporary work adjustments or accommodations of medically determined work restrictions, and devising constructive solutions for the future.

**Document, Document, Document!!!** The supervisor is responsible for documenting observations and interactions with employees. Documentation should reflect objective and descriptive information collected, including the supervisor's assessment of the employee's actions and behaviors. Note times, dates, locations, other employees involved, observations, interactions with the employee, etc. Occupational Medicine will document the formal FFD process itself.

**Stress:** Stress is a normal part of everyday life. A certain amount of stress stimulates our systems to keep us alert, informed, and prepared for the next events of life. Among other things, boredom and actual or anticipated abnormal conditions can make the work environment a center of stress. Stress can reduce a person's ability to think clearly and can cause poor communications, degradation of teamwork, and faulty decision making. It cannot be totally eliminated from the workplace, so individuals need to develop a variety of coping skills to deal with normal stressors.

It is a manager's responsibility to encourage all employees experiencing stressful situations or a buildup of personal and/or workplace problems to seek the assistance of the Laboratory Employee Assistance Program (EAP) counselors in finding healthy solutions to these problems. The EAP staff can introduce employees to stress reduction and biofeedback programs, as well as provide individual counseling and referral. The Wellness Center also offers stress management classes and a variety of exercise, diet, and wellness activities designed to assist employees in creating and maintaining a sense of well being and caring for their health.

## **PART II:**

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### **When Intervention may be Appropriate**

Problem areas that warrant supervisory intervention include the following:

1. safety and reliability concerns,
2. violence or threats of violence,
3. suspected substance abuse, and
4. declining performance.

A formal FFD evaluation **may** be involved in any of the above problem areas. This section explores each problem area, describes behavior that should raise a red flag to the manager or supervisor, includes resources and appropriate courses of supervisory action, and points to when formal FFD evaluation is appropriate.

#### **1. Safety**

Managers and supervisors are expected to know and monitor their employees well enough to recognize when they are behaving unusually or inappropriately. Supervisors need to be concerned about the employee and about the safety in the workplace.

##### **Hazardous Work**

If the supervisor has any indication that an employee cannot devote full attention when doing hazardous work, the supervisor shall prohibit the employee from continuing this work until reasonably assured that safety is not jeopardized. Additional controls and additional supervision may be required, or a Fitness for Duty evaluation by Occupational Medicine may be necessary before the employee is returned to hazardous work.

Supervisors are reminded that AM 313 (*Sick Leave*) requires that all employees return through Occupational Medicine for permission to return to work after being absent for five or more work days for medical reasons. Further, if there is reason for concern regarding medically driven work restrictions or if the employee requests a medically based accommodation, employees may be referred to Occupational Medicine at any time for such evaluations. Contact the ESH-2 FFD Coordinator for advice.

Red Flags:

- Return to work after prolonged illness, injury, or surgery;
- Odd, bizarre behavior;
- Unusual depression, anxiety;
- Changes in social habits; or
- Excessive use of sick leave.

## **2. Violence and Threats of Violence**

Laboratory policy supports a zero tolerance for acts or threats of violence at the Laboratory. The Director recently reemphasized this philosophy in a memo to all employees, stating:

“In the last several years, workplace violence has become an issue of increasing concern throughout the nation. Because it is the goal of the Laboratory to provide a safe work environment, I feel it is important to reemphasize the Laboratory’s policy regarding violent behavior. The policy is simple: *there is zero tolerance for violence and threats of violence at the Laboratory*. This means that employees who engage in violent behavior or threaten violence will be subject to discipline, up to and including termination, and that managers who fail to take appropriate action when violence or threats of violence occur will also be subject to disciplinary action. Violent behavior can take many forms, and at the Laboratory we prohibit and will take steps to prevent the entire spectrum of such behavior.

Under this policy, employees have the basic responsibility to refrain from violent behavior. Anyone with a concern about actual or potential violence is urged to talk promptly to his or her supervisor and to use the resources of the Employee Relations Group in the Human Resources Division (HR-ER). If an employee is a victim of such behavior, or knows of violent behavior or threats directed at others, he or she must notify the group-level or higher manager, who then must report the incident to HR-ER. In a situation that poses a threat of bodily harm, employees should call 911 and then contact the supervisor. Reprisal against anyone who reports incidents of violence or who is involved in an investigation is forbidden.

Let me emphasize that this policy is ultimately part of the larger concept of treating each other with respect in all of our interactions.”

If an employee commits or threatens an act of violence, the supervisor must

1. call FSS Special Projects Office for assistance in dealing with the violent employee and removing him or her from the work site, and
2. call Employee Relations staff for guidance in handling the immediate situation and to receive assistance on subsequent investigations and disciplinary action.

Please note that **emergencies should be reported by calling 911**

When initially dealing with violence in the workplace, an FFD referral to ESH-2 is **not** appropriate. While there may be contributing factors, that cause or relate to the employee's violent behavior (for example, personal problems or health issues) the behavior itself cannot be tolerated.

Once investigatory and disciplinary actions have been taken, it may be appropriate to perform an FFD evaluation if it is determined that the employee is to remain in the workplace or there is a need for a return-to-work evaluation to examine safety issues. (See AM 313 *Sick Leave*)

The Employee Relations and Occupational Medicine staff can help supervisors and employees sort out how to deal with corrective actions and FFD issues once the initial behaviors have been dealt with and disciplined.

Another Laboratory tool available to manager and supervisors when dealing with acts or threats of violence is AM 112 *Discipline Policy and Procedures*

**Red Flags:**

- Any violent behavior  
(hitting, pushing, throwing things, destroying property)
- Any threat of violent behavior  
(I'll get you! They will be sorry! etc.)

### **3. Suspected Substance Abuse**

Section AM 110, *Substance Abuse*, outlines the Laboratory's policy regarding substance abuse. Employees are responsible for reading and abiding by these policies. Substance abuse problems can be difficult for both the employee to recognize in themselves and for managers or supervisors to recognize in the work site context.

Employees are encouraged to self refer to the Employee Assistance Program (EAP) counseling staff, when they are experiencing substance abuse problems, to get the problem under control before it impacts their ability to perform their job assignment. However, once substance abuse problems begin to impact the workplace, a management referral for FFD evaluation under the provisions of AM 110 must be made, and the employee no longer has the option of self referral.

Supervisors and managers are encouraged to seek the assistance of the Employee Relations staff and/or the Occupational Medicine FFD Coordinator to help sort out concerns and plan a course of action. If substance abuse is the underlying problem, hesitation and procrastination will only serve to allow the problem to progress.

Another Laboratory tool to aid managers and supervisors with suspected substance abuse is AM 112(*Discipline Policy and Procedures*.)

Red Flags:

- Emotional mood swings
- Drowsiness or sleeping on the job
- Slurred speech
- Absence from work patterns
- Smell of liquor or drugs
- Observation of usage or possession of drugs or alcohol
- Repeated accidents
- Changes in social habits
- Frequent visits to areas of worksite not normally visited
- Decline in personal appearance and hygiene

## 4. Declining Performance

Employee performance may be declining for a variety of reasons, but those reasons do not release the employee or the supervisor from dealing with the fact that performance is not meeting established expectations. The Laboratory Performance Assessment system (AM 109*Performance Assessments*) is the Laboratory tool for dealing with performance problems.

If the employee brings up medical problems, mental health issues, or disability issues when confronted about poor performance, an FFD evaluation through the Occupational Medicine group may be appropriate. Resolution of performance problems should not be delayed simply because the employee has invoked medical problems as contributing to or causing the performance problems.

When dealing with declining performance the Employee Relations group will assist managers with performance appraisal options. If an employee states health issues are contributing to performance problems the supervisor contacts the Occupational Medicine FFD Coordinator to arrange for formal FFD evaluation if appropriate.

It must be emphasized that managers and supervisors address performance issues directly and that medical issues are discussed **ONLY if the employee identifies them as contributory**. When addressing performance issues, do not assume or

presume disabilities, diagnose, or lower the level of performance expectations simply to bring the employee to satisfactory performance levels.

**Red Flags:**

- Erratic or deteriorating productivity
- Significant changes in efficiency
- Failure to follow instructions
- Errors in judgment
- Deteriorating accuracy
- Attendance patterns affecting availability and reliability
- Missing deadlines
- Passing work off to other employees

**Examples of Behavior NOT Appropriate for FFD Referral**

Some behaviors are clearly in violation of law or policy. For example, sexual harassment, fraud, theft, absence without supervisory approval, misuse or abuse of paid leave, misuse of government property, or security violations, are not appropriate for FFD referrals through the Occupational Medicine group. Such behaviors are dealt with through the Laboratory disciplinary processes.

Laboratory managers and supervisors are responsible for dealing with such issues immediately, instituting applicable investigations, placing employees on investigatory leave as appropriate, and taking disciplinary action up to and including termination.

The Employee Relations group will assist with investigations, disciplinary actions, and accessing other resources. Laboratory tools that managers and supervisors may refer to when dealing with disciplinary issues are AM 112 and other AM policies related directly to the violation.



## **PART III:**

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### **The ESH-2 Fitness for Duty Evaluation Process**

The supervisor contacts the Occupational Medicine FFD Coordinator to discuss FFD options. If it is determined that an FFD evaluation is appropriate, the following occurs:

- The FFD Coordinator provides the supervisor with guidance, a sample memo format for the official written request.
- The supervisor writes the memo to Occupational Medicine. After being notified that Occupational Medicine has received the memo, the supervisor meets with the employee to share the memo and concerns regarding the employee's fitness for duty and tells the employee the scheduled appointment date for the initial evaluation.
- Following the evaluation, the Occupational Medicine FFD staff will advise the supervisor regarding FFD findings and will outline work restrictions, if appropriate.

If a work restriction is identified, it is up to the supervisor to team with the employee and devise any reasonable modifications to the work assignment or make other accommodations in response to medical restrictions.

If the employee refuses the Occupational Medicine FFD evaluation, disciplinary action, up to and including termination, may result. The supervisor must address a work performance problem by using the performance action track (PAT) or a conduct problem with disciplinary action without consideration of any medical input to the process.

Employees may be placed on FD time and effort code (AM 322 *Miscellaneous Excused Absences*) by the Occupational Medicine staff if it is necessary for the employee to be off work during the performance of all or part of the FFD evaluation. Once the evaluation is complete and medical restrictions are defined, the employee is then placed on other pay status as appropriate.

The FFD process is **not** a substitute for disciplinary action or performance management plans. Unless supervisors proceed with the formal FFD process, they will not have access to information from LANL medical staff. Problems have to be dealt with formally, not with informal evaluations or information. By using the FFD evaluation, management addresses concerns while treating the employee in a respectful manner.

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## **Summary**

All employees must be fit for duty while in work stations. Each employee is responsible for avoiding behavior that could compromise the health or safety of an employee (including themselves), the public, National security, or the security of the Laboratory. There are a variety of policies procedures, tools, and sources available to managers and supervisors to deal with behavioral and performance concerns. It is the supervisor's or manager's responsibility to be sufficiently aware of their employees to identify atypical behavior or job performance and to take appropriate action.

## **Self Assessment**

### **Questions**

(1) Managers and supervisors address performance issues directly. Medical issues can only be addressed if

- a. the manager or supervisor thinks the employee might have a health-related problem.
- b. the employee identifies a medical issue as contributory to work performance.
- c. the employee appears to be disabled.
- d. the manager or supervisor believes the employee has made errors in judgment due to health issues.

(2) Employees are generally urged to self-refer to the Employee Assistance Program (EAP) counseling staff when they are experiencing substance abuse problems. Examples of red flags to managers and supervisors that an employee might have a substance abuse problem include all of the following EXCEPT

- a. smell of liquor or drugs
- b. drowsiness or sleeping on the job
- c. gossiping
- d. slurred speech

(3) Employees must return to work through Occupational Medicine for permission to return to work after an absence of

- a. 5 days
- b. 3 days
- c. 7 days
- d. 4 days

(4) LANL policy supports a zero tolerance for acts or threats of violence at the Laboratory. If an employee is the victim of such behavior, or knows of violent behavior or threats and has reported them to you as the manager or supervisor, your responsibility is to

- a. try to settle the dispute or try to calm the aggressor down.
- b. assure the reporting employee that he or she probably misread the situation.

- c. immediately report the incident to Employee Relations Group within Human Resources (HR-ER).
  - d. immediately terminate the accused worker.
- (5).A supervisor must prevent a worker from doing hazardous work if the worker cannot devote full attention. Indicate the order in which you would go about determining if the worker should perform the work.
- a. Contact the FFD Occupational Medicine staff to arrange a Fitness for Duty Evaluation as appropriate.
  - b. Stop the employee from doing hazardous work.
  - c. Observe the employee's condition.
  - d. Ask the employee if he/she believes he/she is capable of doing the work safely and discuss your concerns.

**Answers**

1-b; 2-c; 3-a; 4-c; 5-recommended order is c,b,d,a.